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ONYX PHARMACEUTICALS, INC.
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OFFICE OF PETITIONS

In re Application of :
Shen et al. :
Application No. 10/669,768 : DECISION GRANTING
Filed: 24 September, 2003 : PETITION
Attorney Docket No. ONYX 1047-DIV :

This is a decision in reference to the renewed petition filed on 7 October, 2004, which is treated as a petition requesting that the above-identified application be accorded a filing date of 24 September, 2003, with six (6) sheets of drawings as a part of the original disclosure.

The petition is **granted**.

On 24 September, 2003, the application was deposited. Accordingly, on 7 July, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that the filing date would be the date that drawings were received in compliance with 35 U.S.C. § 113 (first sentence). A two (2)-month period for reply was set.

A petition was filed on 27 July, 2004. Petitioners assert that six (6) sheets of drawings were present on filing. In support, a copy of petitioners' return receipt postcard was supplied with the present petition. The postcard shows a Office date stamp of 09/24/03 and the above-identified application and itemizes the filing of, *inter alia*, six (6) sheets of formal drawings. The petition was dismissed on 20 September, 2004, however, because no copy of the six (6) sheets of drawings was located among the papers filed with the petition.

In response, the present renewed petition was filed on 7 October, 2004, along with a copy of six (6) sheets of drawings.

A review of the record reveals that no sheets of drawings received on 24 September, 2003, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 24 September, 2003, included six (6) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including six (6) sheets of drawings, is entitled to a filing date of 24 September, 2003.

In view of the above, the petition is granted. The petition fee of \$130.00 will be credited to counsel's deposit account, No. 15-0615.

The application will be processed and examined using the application papers present on filing and the copy of the six (6) sheets of drawings supplied with the present renewed petition.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 24 September, 2003, using the application papers filed on that date, and the copy of six (6) sheets of drawings described in the specification supplied with the present renewed petition.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
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Office of Petitions